

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

QUINZELL WOODEN,

Appellant,

v.

DIVISION OF EMPLOYMENT SECURITY,

Respondent.

DOCKET NUMBER WD74308

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: April 17, 2012

APPEAL FROM

The Labor and Industrial Relations Commission

JUDGES

Division Two: Witt, P.J., and Ellis and Pfeiffer, JJ.

CONCURRING.

ATTORNEYS

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Attorney for Respondent.



MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS, WESTERN DISTRICT

QUINZELL WOODEN,

Appellant,

v.

DIVISION OF EMPLOYMENT
SECURITY,

Respondent.

OPINION FILED:

April 17, 2012

WD74308

Labor and Industrial Relations Commission

Before Division Two Judges:

Gary D. Witt, Presiding Judge, and Joseph M. Ellis and
Mark D. Pfeiffer, Judges

Quinzell Wooden sought unemployment benefits after being fired from his job at The Summit, Inc. Wooden was fired because he violated a work rule by failing to pick up trash outside Summit's facility immediately upon his arrival at work. The Labor and Industrial Relations Commission determined that Wooden was not eligible for unemployment benefits because he was fired due to misconduct connected with his work. Wooden appealed to this court, and this court remanded the case to the Commission for the Commission to provide factual findings resolving the question of whether Wooden's violation of the work rule was intentional or culpably negligent as opposed to the result of simple negligence, poor workmanship, or a lack of judgment. On remand, the Commission found that Wooden knew he was to pick up trash upon arrival at work in the morning, that he did not do so, and was fired. Wooden timely appeals to this court.

REVERSED AND REMANDED.

Division Two holds:

- (1) An employee who is fired due to misconduct connected with his work is disqualified from unemployment benefits, but there is a vast difference between misconduct that provides grounds for firing an employee and misconduct sufficient to justify denial of unemployment benefits.

(2) In order to disqualify a former employee from unemployment benefits due to misconduct, there must be a finding that the employee intended to commit misconduct or was otherwise negligent to such degree that the conduct was culpable. The employer bears the burden of proving misconduct by the employee.

(3) Summit did not meet its burden of proving that Wooden acted with a deliberate intent or culpable negligence in violating the work rule. The Commission erred in denying Wooden unemployment benefits.

Opinion by: Mark D. Pfeiffer, Judge

April 17, 2012

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